



CABLE & WIRELESS, INC.

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January 22, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th St., SW
TW-A325
Washington, D.C. 20554

**RE: Ex Parte Presentation
Section 1.1206(b)(1) and (b)(2) Disclosure
Telecommunications Carriers' Use of Customer Proprietary Network
Information and Other Customer Information (CC:96-115)**

Secretary Salas:

On January 21, 1999, Paul W. Kenefick of Cable & Wireless U.S.A., Inc. ("C&W USA") and Steven A. Augustino of Kelley, Drye and Warren, representing C&W USA, made a written and oral ex parte presentation to Bill Agee, Margaret Egler, Anthony Mastando, Peter Wolfe, Eric Einhorn of the Common Carrier and Wireless Bureaus concerning several issues pending in the above entitled docket. Attached is a written presentation which was presented to the attendees and supported by C&W USA.

Specifically, the participants discussed the means by which the Commission can ensure customer proprietary network information ("CPNI") is protected by carriers without an undue regulatory burden. As outlined in the attached document, C&W USA illustrated its support for revised rules governing CPNI flagging and audit trails which would meet the Commission's goals of ensuring the security of CPNI yet would not require carriers to engage in a massive overhaul of their software and networks in order to comply. Further, the participants discussed a proposal supported by C&W USA and other parties which would permit carriers to acquire CPNI approval from certain customers through streamlined means. For those customers who had agreed to CPNI access after the enactment of the Communications Act of 1996 but prior to the release of the Commission's CPNI Order, C&W USA advocates a system where this approval could be reaffirmed through a notice and opt-out mechanism, rather than the express approval means currently required.

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If you have any questions or comments concerning this disclosure or the presentation in general, please do not hesitate to contact me at 703-905-5785.

Sincerely,

Paul W. Kenefick
Regulatory Counsel

Attachment

cc: Bill Agee
Margaret Egler
Anthony Mastando
Peter Wolfe
Eric Einhorn
Steven A. Augustino
Ceci Stephens

January 8, 1999

**Proposal For Commission Amendment of Sections 64.2009(a), (c), and (e) of its
Customer Proprietary Network Information (CPNI) Rules**

The CPNI Coalition recommends that the Commission revise the CPNI rules rather than issue clarifications that are facially inconsistent with the language of the rules as adopted in the February 26, 1998 Second Report and Order in CC Docket No. 96-115.

Amendment of the rules concerning CPNI compliance will ensure that carriers and consumers are able to ascertain carriers' CPNI compliance obligations by consulting the Commission's rules as published in the Code of Federal Regulations.

The rules, as modified below, conform to the statutory scheme and the Commission's intent to protect legitimate consumer privacy interests without imposing extraordinary and unwarranted burdens on carriers. These modifications are supported by a broad-based industry consensus.

Sections 64.2009(a) - Flagging

Section 64.2009 (a) states that:

"Telecommunications carriers must develop and implement software that indicates within the first few lines of the first screen of a customer's service record the CPNI approval status and reference the customer's existing service subscription."

The Commission should *modify* Section 64.2009(a) to read as follows:

"Each carrier shall establish guidelines that direct its marketing personnel to determine a customer's CPNI approval and service subscription status prior to the use of CPNI for any offering outside of the service category (i.e., local, interexchange, and CMRS) to which the customer subscribes with that carrier. The carrier shall make such approval and status information available, either electronically or in some other manner, to marketing personnel in a readily accessible and easily understandable format."

Sections 64.2009(c) - Electronic Auditing

Section 64.2009(c) states:

"Telecommunications carriers must maintain an electronic audit mechanism that tracks access to customer accounts, including when a customer's record is opened, by whom, and for what purpose. Carriers must maintain these contact histories for a minimum of one year."

The Commission should *modify* Section 64.2009(c) to read as follows:

"Each carrier shall maintain a file, electronically or in some other manner, of its marketing campaigns that use CPNI, that includes a description of the campaign and the CPNI that was used in the campaign, its date and purpose, and what products and services were offered as part of the campaign. The file must be kept for a minimum of one year."

Sections 64.2009(e) - Officer Certification

Section 64.2009(e) states:

"A telecommunications carrier must have a corporate officer, as an agent of the carrier, sign a compliance certificate on an annual basis that the officer has personal knowledge that the carrier is in compliance with the rules in this subpart. A statement explaining how the carrier is in compliance with the rules in this subpart must accompany the certificate."

The Commission should *modify* Section 64.2009(e) to read as follows:

"A telecommunications carrier must have an officer, as an agent of the carrier, sign a compliance certificate on an annual basis that the carrier is in compliance with the rules in this subpart. A statement explaining how the carrier is in compliance with the rules in this subpart must accompany the certificate."

The Commission should further *clarify* that, as a foundation for the officer certification required by Section 64.2009(e), a carrier shall:

- establish an internal compliance oversight function to monitor ongoing CPNI compliance efforts.
- conduct an annual CPNI compliance review.
- describe as part of the statement accompanying the officer certification the variety of mechanisms used by the carrier to comply with the rules in this subpart.